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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,547	09/08/2003	David S. Breed	ATI-306	9883
22846	7590	04/04/2005	EXAMINER	
BRIAN ROFFE, ESQ 11 SUNRISE PLAZA, SUITE 303 VALLEY STREAM, NY 11580-6170			JACKSON, ANDRE L	
			ART UNIT	PAPER NUMBER

3677

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/657,547

Applicant(s)

BREED ET AL.

Examiner

Andre' L. Jackson

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 20-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 18 and 19 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8 and 20-23, are drawn to an apparatus and a process of using the apparatus (infinite door check mechanism), classified in class 16, subclass 82.
- II. Claims 18 and 19, are drawn to an apparatus and a process of using the apparatus (RFID sensor), classified in class 340, subclass 400 +.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination respectively.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the infinite door check mechanism is a self-contained invention not requiring the subcombination to be fully operative. The subcombination has separate utility such as useable as a remote entry device; tracking and delivery of goods/services (bar code labels); security clearance (ID badges).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter as well as by their different classification, restriction for examination purposes as indicated is proper.

Art Unit: 3677

A telephone call was not made to Brian Roffe to request an oral election to the above restriction requirement.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 14, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,134,837 to Kawanobe et al. Kawanobe et al discloses a door holding system comprising;

a door frame (12, 13); a door (3) mounted in the door frame and arranged to move in a lateral direction alongside the door frame; an infinite door check mechanism (56) for enabling the door to be moved from a closed position in the door frame to one or more different laterally

Art Unit: 3677

open positions and held, in which the space between a lateral edge of the door and the an edge of the door frame against which the lateral edge of the door is positioned when the door is situated in the door frame is varied (Fig. 2) and maintained in any of the plurality of different laterally open positions in the absence of a applied force to hold the door in the positions; a motor (54) coupled to the door and arranged to move the door from the closed position to the one or more open positions; a detecting means (60) for detecting resistance to opening movement of the door; and a processor (61) coupled to the detecting means and the motor for receiving the detected resistance to the opening movement of the door and directing the motor to stop the opening movement of the door when the detected resistance is above a threshold (col. 6, lines 49-67s ); the detecting means comprising a pressure sensor (19, 20) arranged at the door and having a pressure sensitive surface oriented in the direction of opening of the door such that by touching the pressure sensitive surface, resistance is applied to the door causing the opening movement of the door to be stopped.

As to claims 3, 7, 20 and 21, irregular torque is detected on the motor by the detecting means (col. 7, lines 24-38).

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 8, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawanobe et al. Kawanobe et al discloses all of the limitations of the above claims except Kawanobe et al does not specifically disclose that the detecting means comprising a pressure sensor arranged on the door as claimed. Rather, Kawanobe et al discloses that the detecting means is in the form of sensors or switches (19, 20) mounted at a driver's seat and a rear seat. Here, one of ordinary skill would recognize the location of the switches at a driver seat and rear seat are general locations. It is well known that power controlled switches associated with a vehicle are supported on a console strip (power window/locks/mirror buttons) along the doors of a vehicle. And it would have been obvious to one having ordinary skill in the art for the sensors/switches of Kawanobe et al to have provided these switches on the door as claimed to afford the ergonomic orientation of power control buttons/switches within a comfortable and easy operable position coinciding with surrounding ergonomics and aesthetic interior of the vehicle.

**Response to Applicant's Arguments**

Applicant's arguments filed in the amendment on March 17, 2005, with respect to the rejected claims as being unpatentable over Kawanobe et al has been considered but deemed not persuasive. Applicant's remarks on pages 8 and 9 pertaining to claims 18 and 19 are moot because the Examiner believes these claims are drawn to a combination /sub-combination restriction requirement, where the Examiner believes the subject matter in claims 18 and 19 is separate from the subject matter recited in claims 1-8 and 20-23 as explained above.

Referring to applicant's remarks on pages 6 and 7, in particular, applicant arguments directed to independent claims 1 and 5 respectively, that Kawanobe et al does not disclose or suggest the amendment to the claims of a door check mechanism maintaining a door in any of a plurality of different lateral positions in the absence of applied force to hold the door in the maintained position. In contrast, applicant states Kawanobe et al stops the door, not by the checking mechanism, but rather by detecting an obstacle, which inherently creates a detective resistance or resistive force to hold the door in the stopped position. Here, the Examiner agrees with applicant that Kawanobe et al does disclose such a feature, when an obstacle is detected that subsequent movement of the door is stopped or reversed to a position and then stopped to allow for the obstacle to clear as disclosed in column 6, lines 56-67. However, the Examiner relies on the disclosure of Kawanobe et al that uses the electromagnetic clutch or the infinite check mechanism to hold the door in a plurality of open positions along the guided track of the sliding door. One example, in column 11, lines 1-13, Kawanobe et al describes a mode where the clutch or check maintains or stops the door at a half-open position in the absence of an applied force.

Art Unit: 3677

Further, in column 18, lines 42-52, Kawanobe et al describes a holding mode based upon the plane of the vehicle and the movement of the door relative to the plane. The holding mode described by Kawanobe et al checks or arrests the door relative to the position of the vehicle not by detecting an obstacle, which inherently creates a detective resistance or resistive force to hold the door in the stopped position as asserted by applicant.

Moving to applicant's remarks on pages 7 and 8 pertaining to claims 22 and 23, detailing a pressure sensor arranged on the door and Kawanobe et al not disclosing or suggesting the specific arrangement as claimed, the Examiner has modified the rejection of these claims as an obvious-type rejection described above.

In conclusion, the Examiner believes the foregoing reasoning pertaining to applicant's concerns and arguments that Kawanobe et al does not disclose or suggest the limitations as presented in applicant's claims have been addressed by the Examiner. Thus, the Examiner believes after the explanation of Kawanobe et al, as interpreted by the Examiner, meets applicant's claims. Consequently, claims 1-8 and 2-23 are found not patentable over Kawanobe et al. Claims 18 and 19 are subject to a restriction requirement.



Art Unit: 3677

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson  
Patent Examiner  
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ALJ

WILLIAM L. MILLER  
PRIMARY EXAMINER

